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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Note verbale dated 6 April 2000 from the Permanent Mission of the Sudan to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

The Permanent Mission of the Republic of the Sudan to the United Nations Office and other International Organizations at Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to enclose herewith* a diskette containing the text of the response of the Government of the Sudan to the note by the secretariat contained in document E/CN.4/2000/36.

The Permanent Mission of the Sudan requests the esteemed secretariat to process and distribute the contents of the response as an official document of the fifty-sixth session of the Commission on Human Rights annexed to the note by the secretariat referred to above.

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* The annex is reproduced as received, in English only.

ANNEX

The Response of the Government of the Sudan to the Note prepared by the Secretariat on the Situation of Human Rights in the Sudan, contained in document E/CN.4/2000/36 dated March 2000

Geneva, 2nd April 2000

INTRODUCTION

1. The Government of the Sudan (GOS) has received the above mentioned note at a late stage, therefore, this response has been prepared without having much time to provide all the necessary detailed information.

2. The Government of the Sudan understands that the Note by the Secretariat was prepared because personal compelling reasons have made the Special Rapporteur of the Commission on Human Rights on the Situation of Human Rights in the Sudan, Mr. Leonardo Franco, unable to finalize and present his report before the Commission. We pray to Almighty God that the family emergency of Mr. Franco would go well.

3. Having understood the circumstances which necessitated the preparation of the Note, we hope that the Government of the Sudan would be given the time agreed upon to respond to the edited report prior to issuing it as a document of the Commission.

I. VISIT TO THE COUNTRY

4. The GOS reaffirms its firm commitment to the respect, promotion and protection of human rights and fundamental freedoms. Also the GOS reiterates its commitment to full cooperation with the Special Rapporteur of the Commission on Human Rights, Mr. Leonardo Franco, and with all United Nations mechanisms working in the field of Human Rights. It is within this context of commitment, cooperation and transparency that the GOS has extended its invitation to the Special Rapporteur and other mandate holders to visit the country.

5. The GOS welcomes the acknowledgment of the Special Rapporteur of "the very good cooperation he received from the GOS throughout his visit", and the decisive support of the Government authorities in organizing it.

6. With respect to Para 6 of the note by the Secretariat about the prevention of the Special Rapporteur from flying from the city of Lockichoggio to the area controlled by SPLA, it is imperative to state the following :-

   (1) The GOS had not received any request for flight-clearance neither by the Special Rapporteur nor by OLS to take the Special Rapporteur from Lockichoggio to the areas controlled b y SPLA.
   (2) OLS flights to the area are given clearance on monthly bases to over hundred destinations in rebel held areas. The clearance for March 2000 delayed for technical reasons due to the complicated schedule submitted by OLS on 28th and agreed upon and approved late evening on March 1st 2000.
   (3) It was unfortunate that the Special Rapporteur couldn't fly to the area due to the above facts, however, had the GOS been informed of the intended visit it could have issued its clearance immediately.

II. POLITICAL AND SOCIAL CONTEXT IN WHICH THE MISSION TOOK PLACE

7. The GOS welcomes the observation of the Special Rapporteur that it undertook during the year, efforts to continue to improve relations with neighbouring countries as well as other members of the international community.

III. CONCLUSIONS AND RECOMMENDATIONS

8. The GOS welcomes the observation of the Special Rapporteur that he attaches very high importance to the stated will of the Government to bring early peace to the country and to promote the transition to democracy. And the GOS agrees fully with the Special Rapporteur that these two objectives are inextricably linked to the promotion and protection of human rights and fundamental freedoms.

9. Regarding the aerial bombardment, the GOS would like to make the following clarifications :

a) The collateral damage caused to the civilians was not intentional, since it is the stated policy of the Government to protect civilians. This reality is evidenced by the established facts that all civilians fleeing the conflict zone are taking refuge in the Government controlled areas despite the close proximity of neighbouring countries and rebel controlled areas.

b) The GOS is firmly committed to the respect of international humanitarian law, in particular the fourth Geneva Agreement.

c) The Note under consideration has observed that the rebels are using civilian premises for military purposes. And we recall that the resolution of the Commission on Human Rights of last year no. 1999/15 and the resolution of the UN General Assembly of December 1999 on the situation of human rights in the Sudan have reiterated the same concern.

d) The standing orders of the air force pilots are to disregard all bombing instructions if it becomes clear to the pilot that the targeted areas are civilian installations, or occupied by civilians, or if there are civilians in the area.

e) The Sudan air force doesn't have the advanced technology for aerial bombardment and therefore, unfortunate and unintended incidents do take place, on rare occasions, as was the case with Kaouda School on 8th February 2000. The GOS reiterates its deep sorrow for the incident and has already established an investigation committee to look into the circumstances of the incident and make the necessary recommendations.

f) The ICRC has been, for more than two years, conducting training for the Sudanese armed forces in humanitarian law. This endeavor has been noted and welcomed by the Special Rapporteur.

A. Constitution and Transition to Democracy

10. Moreover, the GOS welcomes the observation of the Special Rapporteur that : "during his visit to Khartoum the Special Rapporteur was pleased to observe signs of greater political dialogue and the enjoyment of a broader degree of the freedoms of expression, press and assembly". This observation evidences the fact that the commitment of the GOS to the respect and promotion of human rights has been reflected to actions on the ground.

11. Regarding the curtailment of rights of opposition students, we clarify that all measures taken against them were administrative and disciplinary measures taken by the university authorities. The Government authorities were not party to those measures. Nevertheless, the Minister of High Education has intervened and those measures were canceled.

12. The independence of the judiciary in the Sudan is guaranteed beyond any doubt, that explains why the Government has maintained the Judicial Authority Act of 1986 without any amendments when it has assumed power in 1989. Furthermore, that independence was confirmed in the 1998 Constitution and was also reinforced by the establishment of a new Constitutional Court.

13. The new Security Forces Act of 1999 has provided new strong guarantees, since the six months renewals of detention under the old law were reduced to one single month. In addition to that, all actions undertaken under the new law are made subject to judicial review. Since the international human rights standards for liberty and security of the person provided for in the International Covenant on Civil and Political Rights do not provide for a fixed time limit, we therefore, believe that the Security Forces Act of 1999 has gone in the right direction by reducing the days of detention by security officials and by subjecting their actions to judicial review. Nevertheless, we do not claim that the new law is an ideal law but, undoubtedly it is a substantial improvement of the old law.

14. We note that the Special Rapporteur has recognized that allegations of torture, arbitrary detention and other abuses have declined in number. That improvement is due to the concerted efforts of the Government, in particular the promulgation of the 1998 Constitution and the new laws. Moreover, the allegations of torture have always been taken seriously by the Government and judicial scrutiny has been conducted and some security officers have been convicted. Details of this have been reported in the Sudan periodic Report under the International Covenant on Civil and Political Rights.

B. Respect of Human Rights and International Humanitarian Law during the Conflict

15. To minimize the effects of the armed conflict in Southern Sudan, the GOS has, of late, signed in Geneva the TCHA Agreement under the auspices of the Technical Committee for Humanitarian Affairs. Also the GOS has signed the Ottawa land mines agreement, and has requested the Untied Nations to provide assistance for the removal of land mines. Moreover, the GOS has repeatedly declared comprehensive cease-fires without

any positive response on the part of the rebel movement. The GOS relentless pursuit for peace has been continuous since 1989, and as a result the Khartoum Peace Agreement of 1997 has been concluded with six out of eight rebel factions. And currently negotiations with the John Garang faction are going on under the IGAD auspices.

16. On the other hand, the GOS has honoured all its obligations under Operation Life Line Sudan which is an unprecedented agreement whereby the GOS has agreed for the delivery of relief to the rebel controlled areas. In the same connection, we refer to the cooperation extended by the GOS to the United Nations Inter-Agency Humanitarian Needs Assessment Mission to the Nuba Mountains in June and September 1999.

17. The relocation of population for the purposes of national projects is a normal practice all over the Sudan as is the case in all countries of the world. For example, the GOS is currently relocating population in Northern Sudan for the purposes of constructing Hamadab Dam. Therefore, relocation of population for oil industry operations, though not yet started, should be no exception and should not be attributed to any ethnic considerations. The part of the relocation referred to was due to the conflict over the leadership of the Nuer tribe by different factions. On the other hand the movement of the Baggaara tribes to that region in the last months of the year is an annual phenomenon which has been going on since time immemorial, and it takes place without any government intervention. These tribal movements are governed by traditional tribal rules and customs, and the GOS has no policy of favoring one tribe over the other tribes.

18. The Government of the Sudan, once again, confirms that the air strip of the petroleum companies has never been used for military operations. The air force operations are all conducted from Ribkona military Camp. And we recall in this connection that the rebels have declared time and again that all the facilities of the petroleum industry are military targets, and that explains the heavy Government military presence in the area since it is the duty of the Government to protect its national wealth.

19. The GOS welcomes the condemnation of the Special Rapporteur to the rebel practices in violation of human rights and humanitarian law such as the use of civilian installations for military purposes, recruitment of child soldiers, planting of mines and food diversion. Also the GOS associates itself with the serious concern he has expressed at the attempt by the rebels to politicize humanitarian aid by imposing restrictions on its delivery. Moreover, the GOS is dismayed by the facts reported by the Special Rapporteur that the rebels are behaving as an occupying army in Eastern Equatoria with the local Didinga population, in particular, the closure of 27 schools in the region.

20.0 The GOS notes with satisfaction that the Special Rapporteur was particularly encouraged to learn of the conclusion of the Agreement on the implementation of Principles Governing the Protection and Provision of Humanitarian Assistance to War Affected Civilian Population signed by the GOS and the concerned parties.

21. Also the GOS notes with satisfaction that the Special Rapporteur was pleased with the importance given by the GOS active participation in ICRC training courses on humanitarian law.

22. As regards the exploration of the petroleum resources, the GOS would like to clarify that the oil industry has contributed substantially towards the local development of those areas. A substantial part of those resources would also go, according to the wealth sharing provided for in the 1998 Constitution, for the development of the Southern States through a National Revenue Allocation Committee recently established for the rehabilitation of the South under the chairmanship of the First Vice-president.

C. The Creation of CEAWC

23. The establishment of the Committee for the Eradication of Abduction of Women and Children (CEAWC) by the GOS in March 1999 is a concrete indication of the political will of the GOS to deal with abductions, as has been rightly observed by the Special Rapporteur. And we are pleased to note that he has welcomed that initiative. It is within the context of CEAWC and with its good offices that there is currently on-going dialogue between the concerned tribes.

24. It is encouraging to observe that the Special Rapporteur was particularly impressed by the courage shown by government authorities in discharging a task which is indeed fundamental to help the victims and shows the firm willingness of the Government to tackle the issue.

25. In this connection, the GOS would like to clarify once again that abduction is neither a Government policy nor a war strategy, but a tribal practice which has been going on from time immemorial even among Southern tribes.

D. Peace Process and Human Rights

26. The GOS agrees with the Special Rapporteur that human rights are important in the peace process.

27. Also the GOS shares the belief of the Special Rapporteur in the great importance and value of a "people to people" approach to pave the way to peace and help to solve intertribal problems.

E. International Cooperation in the Field of Human Rights

28. The GOS agrees fully with the Special Rapporteur that it is useful to promote an agreement between the GOS and the Office of the High Commissioner for Human Rights. And we would like to report here that the hopes expressed by the Special Rapporteur to the effect that negotiations should continue and ways and means to cooperate be agreed upon rapidly have come true since the GOS has signed an agreement with the Office of the High Commissioner for Human Rights on 29th March 2000.

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